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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/560,217

04/28/2000

Miska Hannuksela

442-009400-US(PAR)

3689

7590

08/09/2006

Clarence A Green
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EXAMINER

WILSON, ROBERT W

ART UNIT

PAPER NUMBER

2616

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

58

Office Action Summary	Application No. 09/560,217	Applicant(s) HANNUKSELA, MISKA	
	Examiner Robert W. Wilson	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 102,103,105-111,114,116-122,124,126 and 129-176 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 102,103,105-111,114,116-121,129-154,175 and 176 is/are allowed.
- 6) ☒ Claim(s) 122,124, 126, and 155-174 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Allowable Subject Matter

1. Claims 102-103, 105-111, 114, 116-121, 129-154, & 175-176 are allowed. The following is an Examiner's statement of reasons for allowance:

The closest prior art is Wine (U.S. Patent No.: 6,434,319 B1). Wine teaches: an inherent server which streams a GOP frames or a data signal over a transmission link to an inherent client. The GOPs are in MPEG format which have an inherent timestamp The GOPs contain I frames which are high priority or primary data units and B as well as P frames which are low priority or secondary data units. The frames are reconverted or reconverted into high priority or primary units and low priority or secondary data units based upon sequence instead of timestamp or original data units per Figure 7.

Claims 102-103, 105-111, 114, 116-121, 129-154, & 175-176 are considered allowable since when reading the claims in light of the specification, none of the references of record alone or in combination disclose or suggest the combination of limitations specified in the independent claims including:

“primary data units precedes the secondary data unit in the sequence of data units. Thereby increasing the likelihood that the primary data unit will be received at the client in time to be played back at its scheduled playback time during streaming playback at the client”, as specified in claims 102, 111, & 119.

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“the client device being arranged to receive the primary and secondary data units in the modified data unit order and to return the primary and secondary data units to the original data unit order” as claimed in claim 175.

“receiving the primary and secondary data units in the modified data unit order and returning the primary and secondary data units to the original data unit order” as claimed in claim 176.

Abstract

2. The abstract is objected to because it has a reference to a Figure 8 and reference to elemental numbers imbedded in the abstract. The examiner recommends deletion of the reference to the Figure and deletion of the elemental numbers. Appropriate action is required.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 122, 124, 126, 155-164 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Referring to claim 122, computer program products are software instructions and interpreted as a listing if they are stored on a computer readable medium. Software lists are not methods, processes, compositions of matter or articles of manufacture and therefore are directed to non-

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statutory material. It should be noted that in order to be patentable: a computer program product must be stored on a computer readable medium and be executable by a processor.

Referring to claim 126, a data signal is a form of energy or a natural phenomena. A data signal is not a process, composition of matter or article of manufacture and because it is a natural phenomena (a data signal) is directed to non-statutory material and is unpatentable.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 122, 124, & 155-174 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Referring to claim 122, the specification does not define what a “computer useable medium” nor does the specification define “program means, first program means, or second program means”.

Is a computer useable medium a computer readable medium? Where in the specification is “program means”, or “first program means” and “second program means” defined ?

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Referring to claim 165, the claim is directed to a reordering device which only performs the single function of reordering which the examiner has interpreted as a single means claim. It should also be noted that the specification does not define enough structure that performs the reorder function or means in order to know what specific means is doing the reordering. The original claims were for a server, system, data signal, and a method. The re-ordering device was not defined in the original claims filed with the application nor is the re-ordering device described in the specification therefore this claim is rejected due to lack of enablement.

Response to Amendment

4. Applicant's arguments with respect to claims 102-103, 105-111, 114, 116-122, 124, 126, & 129-176 have been considered but are moot in view of the new ground(s) of rejection.

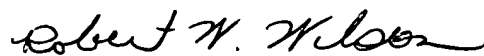
Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Wilson whose telephone number is 571/272-3075. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 571/272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robert W Wilson
Examiner
Art Unit 2616

RWW
8/3/06



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